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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

**COMMENTS OF U S WEST COMMUNICATIONS, INC. IN SUPPORT OF THE
WYOMING PUBLIC SERVICE COMMISSION'S PETITION FOR WAIVER**

U S WEST Communications, Inc. ("U S WEST") respectfully submits these comments in support of the petition of the Wyoming Public Service Commission ("WPSC") for waiver of sections 54.309 and 54.311 of the Commission's rules.¹ These rules require states to target federal non-rural high-cost universal service support (both forward-looking and interim hold-harmless support) to carriers serving high-cost wire centers. The WPSC seeks leave to continue its current approach to delivering high-cost support, which it developed because in Wyoming the costs of providing local exchange service vary significantly even *within* each wire center. Consequently, the WPSC targets federal universal service support to four different cost-based zones within each wire center, which are the same zones that it uses for retail and UNE rates. The WPSC has expressly determined that this more precise method of targeting support is necessary to preserve and advance universal service, by ensuring that funds are distributed to the highest-cost areas. The Commission should accordingly grant the WPSC's waiver request.

Background

As the WPSC has noted, the Commission has concluded that, while the amount of forward-looking and interim hold-harmless support for universal service is calculated statewide, such support should be dispensed only to high-cost wire centers. *See Federal-State Joint Board*

¹ *Petition of the Wyoming Public Service Commission for Waiver of the Federal Communications Commission's Targeting Rules as Found in § 54.309 and § 54.311, CC Docket No. 96-45 (filed March 30, 2000) ("Wyoming Petition").*

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on *Universal Service*, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd. 20,432 (1999) (“*Ninth Report and Order*”). Accordingly, the Commission’s rules provide that forward-looking support is available only to carriers serving wire centers with forward-looking costs above the benchmark, *see id.* ¶ 70, and is distributed pro-rata among eligible wire centers. Hold-harmless support, likewise, is targeted to carriers serving high-cost wire centers, but is distributed under a “cascading approach”: the highest cost wire center receives support first, until that wire center’s costs, net of support, equal the costs in the next most expensive wire center; the process continues until all support is distributed. *Id.* ¶¶ 82-84. But under both methodologies, each line within a wire center receives the same level of support.

The Commission concluded that targeting wire centers was necessary to “avoid[] the inefficiencies and potential market distortions that could be caused by distributing federal support on a uniform statewide basis.” *Id.* ¶ 75; *see also id.* ¶ 82. Failure to target would provide inadequate support to consumers served by the highest cost wire centers and thus “discourag[e] competitive entry in that wire center and plac[e] increased pressure on the state to provide additional support.” *Id.* ¶ 74; *see also id.* ¶ 82.

At the same time, as the WPSC points out, the Commission explicitly maintained flexibility in its approach. *See id.* ¶¶ 76, 86. Indeed, the *Ninth Report and Order* recognized that the very approach that the WPSC now uses to target support and proposes to retain—focusing on UNE rate zones—would provide an appropriate basis for a waiver. The Commission said:

[W]e recognize that some states may wish to have federal support targeted to an area different than the wire center, *e.g., the UNE cost zone*. . . . We believe that such an approach is consistent with the states’ primary role in ensuring reasonable comparability within their borders and would give the states a degree of flexibility in reaching that goal.

Id. ¶ 76 (emphasis added); *see also id.* ¶ 86. The WPSC currently targets support in precisely the manner that the FCC recognized as an appropriate basis for a waiver—UNE rate zones. In Wyoming, using the UNE rate zones distributes support more accurately to high-cost areas.

The WPSC targets federal non-rural high-cost universal service support to geographic zones within each wire center because there is a wide range of low- and high-cost areas within, not just among, wire centers. The WPSC has established a Base Rate Area and three rural zones: The Base Rate Area is the most densely populated, and Zones One through Three are increasingly more rural and sparsely populated. The costs of providing local exchange service thus are lowest in the Base Rate Area and highest in Zone Three.² Within a single wire center, retail rates (excluding subsidies) vary by as much as \$46.25. *See Wyoming Petition* at 3. The WPSC currently distributes support—based on average zone-specific costs—as a monthly direct bill credit to customers: \$0 in the Base Rate Area, \$2.00 in Zone One, \$6.50 in Zone Two, and \$12.25 in Zone Three. *See id.*

Discussion

The WPSC's petition states a compelling case for meeting the Commission's standard for waiving the wire-center-based targeting approach in sections 54.309(b) and 54.311(b) of its rules. A waiver would permit the WPSC to continue distributing federal non-rural high-cost universal service support to zones within the wire centers. The WPSC's existing method of targeting federal (and state) support helps preserve and advance universal service by targeting the support to the highest-cost areas even more effectively than can be accomplished under sections 54.309(b) and 54.311(b). By targeting support to four separate areas within each wire center, the WPSC maximizes the likelihood that consumers in the highest-cost areas of the state

² Service costs are higher in rural areas because the LEC must deploy longer and less concentrated loop facilities to reach customers than in more densely populated areas.

will have access to affordable local telephone service, and it prevents unnecessary subsidies to low-cost areas. The WPSC's sub-wire-center targeting methodology thus creates more efficient incentives for competitive entry and prevents market distortions.

Ensuring that consumers have access to affordable local telephone service is the bedrock of universal service policy. *See, e.g.*, 47 U.S.C. § 254(b)(1) (rates should be "just, reasonable, and affordable"). Wyoming pursues this goal by applying the same logic that underlies the Commission's decision to target support to individual wire centers rather than larger geographic areas—to ensure "that the amount available per line . . . depends on the relative cost of providing service." *Ninth Report and Order* ¶ 70. Because the relative costs of providing service vary significantly within each wire center in Wyoming, the WPSC takes the FCC's rationale one step further and targets federal support to even smaller geographic areas.

Providing a uniform amount of federal support to all lines within each wire center would yield substantial inefficiencies and market distortion. Consumers in high-cost areas within a wire center would receive much lower credits, while consumers in low-cost areas would receive unnecessary credits. For example, if federal per-line support were a flat \$6.00 throughout each wire center, rather than the current range of \$0 to \$12.25, consumers in Zone Three would pay \$6.25 more per month for phone service, making their federally-subsidized retail rate \$63.35, while customers in the Base Rate Area would receive a \$6.00 credit, making their retail rate \$17.10.³ In addition, some high-cost customers could potentially receive no credit, and pay the full \$69.35 rate, if their wire center's costs are below the benchmark and the wire center thus fails to qualify for support. Competitive carriers, in turn, would have inefficient incentives to

³ U S WEST estimates, based on its review of two representative wire centers, that approximately 72% of its access lines in Wyoming are in Base Rate Areas—which currently receive no universal service support under the WPSC's zone-specific methodology. Thus, unless the Commission grants the WPSC's waiver petition, scarce universal service funds would flow overwhelmingly to customers in the lowest-cost areas of the state.

enter the market in the Base Rate Area where they would receive windfall subsidies, while carriers serving the most rural Zones would receive even lower subsidies than their current levels. Grant of this waiver request would thus “maintain the integrity of other reasons specified by the FCC for wanting geographic targeting.” *Wyoming Petition* at 4.

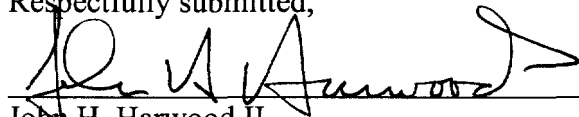
As one of the most rural states in the country, Wyoming’s universal service support system is already stretched beyond its capacity. Creating a larger state mechanism to compensate for the missing federal support would only increase the already heavy burden shouldered by Wyoming consumers. The preservation and advancement of universal service, as well as the development of local competition, depend on the grant of this waiver petition to allow the WPSC to ensure that scarce universal service resources are distributed most efficiently.

U S WEST commends the WPSC for the exceptional job it has done overseeing the very difficult task of distributing scarce universal service funds, and its effort through the waiver petition to stretch those dollars even further. U S WEST agrees with the WPSC that the funds allocated to Wyoming’s non-rural high-cost universal service support mechanism fall far short of the Congressionally mandated “sufficient” mark. 47 U.S.C. § 254(e); *see also U S WEST Communications, Inc. v. FCC*, Nos. 99-9546 and 99-9547 (10th Cir. consolidated Mar. 15, 2000). Indeed, while the pre-1996 Act universal service support system was based predominantly on implicit subsidies, which Congress instructed the FCC to migrate to explicit subsidies in order to avoid market distortion, Wyoming now receives far *less* in explicit subsidies than before the Act. Grant of Wyoming’s waiver request is thus particularly appropriate, in light of the Congressional policy that rates be “just, reasonable, and affordable,” 47 U.S.C. § 254(b)(1), and the absence of sufficient funds allocated to Wyoming to ensure that the people of Wyoming have access to basic, essential services at affordable rates.

Conclusion

For all of the above reasons, the Commission should grant the WPSC's request for a waiver of 47 C.F.R. §§ 54.309(b) and 54.311(b) and authorize the WPSC to target federal non-rural high-cost universal service support to four sub-wire-center zones.

Respectfully submitted,



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Dated: May 22, 2000

CERTIFICATE OF SERVICE

I, John Meehan, do hereby certify that on this 22nd day of May, 2000, I caused true and correct copies of the foregoing Comments of U S WEST Communications, Inc. in Support of the Wyoming Public Service Commission's Petition for Waiver to be served either by hand or by first class mail*, postage prepaid, upon the following parties:

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